



1. The Motion is granted, without prejudice to the extent set forth in paragraph 3 hereof, as to the BANA Defendants as to Counts One (civil conspiracy to commit fraud), Two (RICO), Six (declaratory relief), and Seven (sanctions and damages).

2. The Motion is denied as to the BANA Defendants as to Count Three (waiver of tender).

3. Plaintiff shall have until August 10, 2017 to file a motion under Fed. R. Bankr. P. 7015 for leave to file an amended complaint. Such motion shall attach the proposed amended complaint, marked to show changes from the Complaint, as an exhibit thereto.

Dated: White Plains, New York  
July 24, 2017

/s/ **Robert D. Drain**  
United States Bankruptcy Judge